

# China Human Rights and Rule of Law Update

December 2005

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## United States Congressional-Executive Commission on China

Senator Chuck Hagel, Chairman | Representative Jim Leach, Co-Chairman

### Events

#### Roundtable: China's Changing Security Concerns: The Impact on Human Rights in Xinjiang

The Congressional-Executive Commission on China held another in its series of staff-led Issues Roundtables, entitled [China's Changing Security Concerns: The Impact on Human Rights in Xinjiang](#), on Wednesday, November 16. The panelists, [James Millward](#), Associate Professor of History, Georgetown University School of Foreign Service; [Daniel Southerland](#), Vice-President of Programming/Executive Editor at Radio Free Asia; and [S. Frederick Starr](#), Chairman of the Central Asia-Caucasus Institute at the Johns Hopkins University's School of Advanced International Studies, spoke about Chinese government controls over ethnic Uighur residents in the Xinjiang Uighur Autonomous Region.

#### Roundtable: Working Conditions in China: Just and Favorable?

The Congressional-Executive Commission on China held another in its series of staff-led Issues Roundtables, entitled [Working Conditions in China: Just and Favorable?](#), on Thursday, November 3. The panelists, Judy Gearhart, Program Director, Social Accountability International; Dr. Ruth Rosenbaum, Executive Director, Center for Reflection, Education and Action, Inc.; and Dan Viederman, Executive Director, Verite, spoke about current working conditions for workers in China and the role that internationally accepted standards and their implementation play in fostering the changes that are taking place in the Chinese workplace.

#### Translation: Provisions on Legal Aid Work in Criminal Litigation

The Congressional-Executive Commission on China has prepared a translation of the [Provisions on Legal Aid Work in Criminal Litigation](#).

#### Translation: Court Judgment in Cai Zhuohua et. al. Unauthorized Bible Printing Case

The Congressional-Executive Commission on China has prepared a translation of the [Haidian District People's Court's Written Judgment](#) in the trial of Cai Zhuohua, Xiao Yunfei, Xiao Gaowen, and Hu Jinyun, convicting them of crimes connected with their unauthorized printing and distributing of Bibles and other Christian literature.

## Updates on Rights and Law in China

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### Beijing Court Jails House Church Minister for Giving Away Bibles

The Beijing Haidian District People's Court found Cai Zhuohua, a Protestant house church leader, Xiao Yunfei, his wife, and Xiao Gaowen, her brother, guilty on November 8 of violating Article 225 of China's Criminal Law. The Protestant minister and his family members were accused of printing Bibles and other Christian literature without government permission. According to its November 8 [opinion](#), the court found Cai and his relatives guilty of causing disruption by printing and giving away books without a government permit. The court sentenced the defendants to 3 years, 2 years, and 1 1/2 years imprisonment, respectively, and fined them 150,000, 120,000, and 100,000 yuan (approximately \$20,000, \$15,000, and \$12,500), respectively. The court also found Hu Jinyun, Xiao Gaowen's wife, guilty of violating Article 312 of the Criminal Law, which criminalizes the knowing concealment of illegally acquired goods, because she handled the funds connected with the printing enterprise. The court spared Hu any punishment, however, saying that her crimes were minor and that she had cooperated with the prosecution.

Public security officials detained Cai and seized 237,776 editions of 51 separate titles at a Beijing storeroom on September 11, 2004. Two weeks later authorities detained Xiao Yunfei, Hu Jinyun, and Xiao Gaowen. The Beijing Haidian District People's Procuratorate formally arrested the four house church members in October 2004, and [indicted](#) them in December. In June 2005, the Haidian District People's Court placed the case on its docket, and on July 7 it tried the four in a hearing that lasted 4 1/2 hours. Procuratorate officials asked the court the same day to extend the hearing of the case, to allow the government time to supplement its evidence. The procuratorate filed a second request on September 20, but the court did not notify defense counsel of either [extension request](#) until October 25, according to an October 27 [press release](#) from the China Aid Association.

Article 225 of the Criminal Law requires, among other elements, that the accused's actions must have involved operation of "a business." The defense argued, and the government did not appear to dispute, that the printing enterprise was not conducted

for profit, and that the defendants had not sold any of the publications, but rather had given them away. The court said, however, that Cai had compiled and printed the books as an agent for third parties that provided both materials and funding (but which the court did not name or otherwise describe). The court found that the defendants had earned 80,000 yuan (about \$9,000) through their compiling and printing of books, but no evidence was presented that the defendants acquired the money through sales. Moreover, the opinion cited no evidence indicating that the unidentified third party gave the funds to Cai specifically in connection with the publishing enterprise. Nevertheless, the court held that Cai's and the Xiaos' behavior constituted operating a business within the scope of Article 225.

Article 225 of the Criminal Law also requires that the accused's actions must have "disrupted market order." As noted above, the government did not claim that the defendants sold their publications. The court's decision says that the defendants "disrupted market order," but did not cite any evidence to support this conclusion.

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## Tens of Thousands March for Universal Suffrage in Hong Kong

Tens of thousands of protestors calling for universal suffrage marched in Hong Kong on December 4, according to a December 5 [report](#) in the Washington Post. The march was organized by opponents of the [reform proposals](#) contained in the Hong Kong Constitutional Development Task Force's [Fifth Report](#) issued in October. The report recommends doubling the size of the 800-member committee that picks Hong Kong's chief executive, and expanding the 60-member Legislative Council (LegCo) by 10 seats.

Twenty-five current LegCo members have threatened to block the passage of the proposed reforms owing to frustration with the pace of democratization. Instead, the lawmakers are demanding a specific timetable for granting Hong Kong voters universal suffrage in electing the territory's chief executive and legislature. Universal suffrage is described in Articles 45 and 68 of the [Basic Law](#) as the "ultimate aim." The National People's Congress, however, issued a [decision](#) in April 2004 prohibiting the people of Hong Kong from electing the chief executive in 2007 or the members of the LegCo in 2008 through universal suffrage. For the Constitutional Development Task Force's reform proposals to be implemented, a two-thirds majority in the LegCo must first approve them before the Hong Kong government may apply to the central government in Beijing to amend the relevant annexes of the Basic Law. A vote by the LegCo on the proposed reforms is scheduled for December 21.

The CECC expressed strong support for the provisions of the Basic Law that provide for the chief executive and the entire legislature to be elected through universal suffrage in its [2005 Annual Report](#).

According to a December 6 South China Morning Post (subscription required) [article](#), mainland Chinese news media did not report on the march. Xinhua's English-language Web site, however, published one [report](#) on December 4 saying that "thousands of people took to the streets," but questioning whether the marchers and the organizers had the same political goals and implying that most Hong Kong people support stability and economic development over universal suffrage.

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## SPC Incorporates Reform of Death Penalty Review into New Five-Year Agenda

Supreme People's Court (SPC) President Xiao Yang announced on October 25 that the SPC will consolidate and reclaim its power over death penalty review as part of a Second Five-Year Reform Agenda, according to an October 26 China Daily [article](#). Xiao reported to the Standing Committee of the National People's Congress that, beginning in 2006, the SPC would no longer permit provincial high courts to review death sentences.

The SPC reform agenda helps formalize earlier [announcements](#) and [media reports](#) highlighting reform of the death penalty review process as a priority topic for the Chinese judiciary. The SPC has already [established special agencies](#) to prepare for the additional work likely to result from taking back the death penalty review power. Following a series of [wrongful conviction scandals](#) in 2005, the SPC also convened seminars to help lower-level courts draw lessons from judgments made in error. According to an October 26 [report](#) posted on the People's Daily Web site, President Xiao revealed that "Judges directly responsible [for wrongful convictions] are being investigated, and some have been dealt with according to the law."

Article 48 of the [Criminal Law](#) and Article 199 of the [Criminal Procedure Law](#) (CPL) require SPC approval of all death sentences. Under Article 50 of the Criminal Law, a reviewing court may commute the sentence to a suspension of the death penalty or life imprisonment when the law allows. Under Article 200 of the CPL, a reviewing court may remand a case for retrial when the facts are unclear or the evidence is insufficient. According to President Xiao, the SPC has commuted 22 percent of the death sentences under its review and sent back 7 percent for retrial since 2003. Provincial high courts have commuted 38 percent and sent back 4 percent for retrial. Returning the power of death penalty review to the SPC will play a significant role in restricting the use of death sentences, consolidating criteria used by courts to administer death sentences, and ensuring constitutionally protected human rights, according to an SPC representative quoted by [Xinhua](#).

President Xiao's announcement on October 25 follows [earlier calls](#) to reform the death penalty review process and bring it into line with safeguards provided under the Criminal Law and CPL. The China Daily article also notes that Procurator General Jia Chunwang has announced efforts by the Supreme People's Procuratorate (SPP) to better ensure the rights of criminal suspects. Currently, the SPP is drafting measures designed to strengthen the examination of evidence obtained through torture or other illegal means. In a highly publicized wrongful conviction case that the Chinese news media spotlighted in early 2005, local government officials in Hubei [compensated She Xianglin](#) for forcing him to confess under torture and mistakenly imprisoning him for 11 years.

Additional information on the death penalty in China is available in the [2005 CECC Annual Report](#), Section III(b).

## Chinese Authorities Crack Down on Activists Before U.S. President's Visit

Government officials in a number of provinces launched a crackdown on activists and petitioners in the two weeks preceding U. S. President George W. Bush's November 19-20 visit to China, according to several news media sources. Reports in the [London Daily Telegraph](#), [Los Angeles Times](#), and [New York Times](#) noted that in advance of the visit, the Chinese government failed to release any prisoners of conscience that President Bush raised in a September meeting with Hu in New York.

In a November 21 Christian Science Monitor [report](#), experts analyzed President Hu's silence as a marked departure from the prisoner releases that have occurred before visits by Western leaders in the past. In March, Chinese authorities [released Rebiya Kadeer](#), a Uighur businesswoman, shortly before Secretary of State Condoleezza Rice's visit to Beijing. In August, they [released Wang Wanxing](#), a Tiananmen democracy activist, two weeks before UN High Commissioner for Human Rights Louise Arbour's visit.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20051201&show=ALL#id30524>

## Work Safety Chief Calls for Improved Coal Mine Inspections

Li Yizhong, Minister of the General Administration of Work Safety (GAWS), commented that the Chinese government should implement stricter safety standards for coal mines and a regularized process of mine inspections, according to a November 15 Legal Daily [report](#). Li led an inspection tour of coal mines in Hunan province, one of nine province-wide inspections of unsafe mines that the State Administration of Coal Mine Safety, a unit of GAWS, conducted in November.

In the Legal Daily report, Li exposed falsified coal mine safety records by the Rongfu Coal Mine near Hengyang, Hunan province, to highlight illegal mine operator efforts to avoid the current safety inspection regime. Authorities had already suspended operations at the Rongfu mine until the operator completed safety improvements, but Li also found during his inspection that Rongfu managers underreported the mine's output in 2004 by a factor of ten and gave false figures for gas venting. According to Li, the managers intended this false reporting "to skirt the rules to avoid [permanent] closing." Li faulted mine operators for their "disregard of miner safety" and called for a more rigorous coal mine inspection system to address the problem. Li estimated that at least 400 mines in Hunan province would have to be closed permanently.

The State Council issued a [Circular](#) on August 22, in which it ordered all unsafe mines to suspend operations immediately for safety improvements. Mine operations could not restart until inspectors certify safe working conditions. According to a September 16 statement by Minister Li in the China Daily, "We will give [the unsafe coal mines] one chance, by suspending production, to root out their unsafe practices [or] they will be closed if they cannot meet the safety standards by the end of this year."

For a discussion of coal mine safety issues in China, see the [2005 CECC Annual Report](#).

## Court Sentences Uighur Editor to Three Years Imprisonment for "Splittist" Story

A court in Kashgar city, Xinjiang Uighur Autonomous Region (XUAR), has sentenced Korash Huseyin, the senior editor of the Kashgar Literature Journal, to three years imprisonment for publishing a short story in late 2004 that Chinese authorities allege "incites ethnic splittism," according to a November 11 Radio Free Asia [report](#). [Nurmemet Yasin](#), the author, is already serving a prison sentence; the Kashgar Intermediate People's Court sentenced him in February to 10 years imprisonment for "inciting splittism." Both Huseyin and Yasin are members of the Uighur ethnic group.

The Literature Journal published Yasin's [Wild Pigeon](#), which relates the tale of a wild pigeon captured and caged by humans that commits suicide rather than live without freedom. Chinese authorities interpreted the story to be an allegorical criticism of Chinese policies in the XUAR and arrested Yasin in November 2004.

## TAR Officials Ban Gold Mining Along Rivers, Citing Environmental Damage

Officials in the Tibet Autonomous Region (TAR) banned alluvial gold mining within the TAR on October 8, according to an October 10 [China Daily](#) report. Gold mining in TAR riverbeds and flood plains must cease by November 30, and workers and their equipment must not be present at mining sites after December 31. The ban is a response to a central government call for better regulation of the country's mining industry, but the report emphasizes the role of TAR authorities in addressing the issue. TAR government Chairman Jampa Phuntsog (Xiangba Pingcuo) criticized "predatory exploitation" of local resources in a "harshly-worded internal speech," saying that alluvial gold mines "contribute little to local farmers and herdsman, and a limited amount to the local government," and that the environmental damage they cause "can no longer be tolerated." According to some reports, Tibetans resent the presence of the miners, most of whom are ethnic Han or Hui from other provinces. Landscapes damaged by mining also interfere with the farming and herding practices that support Tibetan livelihoods.

The Great Western Development policy calls for boosting economic development in western China, including the TAR, with measures that include stepping up prospecting and mining, according to the [Circular on the Implementation of Several Policy Measures Regarding Extensive Development of The West](#) that the State Council issued in December 2000 (FBIS 27 December 01). In February 2003, a report to the 16th Party Congress (FBIS 26 February 03) analyzed the prospects for sustainable use

of water and natural resources in a section of the Great Western Development area that includes the Qinghai-Tibet plateau. The report said, "Some small gold mines and some minor gold producing industries have seriously endangered the ecological environment. Those small enterprises that cannot be remolded should be closed in a resolute manner." A Chinese government [White Paper](#) published in December 2003 shows that the report's advice to the Party became policy: "Mining enterprises which operate without licenses, cause environmental pollution, waste resources, or do not have the proper conditions for safe operation shall be closed down in accordance with the law."

Since 2003, environmental authorities in the TAR inspected 97 "major mining sites" that included 68 gold mines, according to a September 14 [China Daily report](#). Officials shut down 34 mines, notified workers at 20 more that they must comply with environmental standards, and ordered "rectification" of 14 mines. A Naqu prefecture official closed an alluvial gold mine in Shenzha county in 2005, even though revenue from the mine accounted for 5 million yuan of the county's 8.5 million yuan budget in 2004, according to the report.

Article 9 of the [Chinese Constitution](#) provides that mineral resources are property of the state. Article 28 of the [Regional Ethnic Autonomy Law](#) (REAL) gives local autonomous governments the right to "manage and protect the natural resources in local areas," but Article 7 of the REAL requires them to "place the interests of the state as a whole above anything else." In May 2005, the State Council issued [Certain Provisions on the Implementation of the Regional Ethnic Autonomy Law](#) (FBIS 26 May 05) that instructed governments at higher levels to "listen to the opinions of national autonomous areas and nationality work departments" on matters that include natural resource exploitation and environmental protection.

Additional information about Great Western Development and China's system of regional ethnic autonomy is available in the [CECC 2005 Annual Report](#).

## IOC Expresses Concern About Government Restrictions on News Media

International Olympic Committee (IOC) spokeswoman Giselle Davies said that the IOC has expressed concern about news media conditions in China, according to a November 13 Associated Press (AP) [report](#) available on the Mainichi Daily News Web site. The IOC expressed this reservation in an otherwise positive assessment that was not released to the public. The assessment evidently said that the Chinese government is either on track or ahead of schedule on commitments to the IOC, with 1,000 days remaining before the Olympic Games begin in 2008. The AP report cited an anonymous IOC official as saying that, among other measures sought in talks with the IOC, the Beijing 2008 Olympic Organizing Committee (BOOC) sought authorization to ask about the religious beliefs of foreign reporters on accreditation applications for the 2008 Games. The IOC is said to have rejected the proposal as contrary to conventional practice.

Jiang Xiaoyu, who currently serves as both Deputy Director of the Beijing Municipal Communist Party Central Committee [Propaganda Department](#) and Vice Chairman of the BOOC, according to his [official biography](#), told a news conference that "foreign journalists do not have any reason to worry," and that "during the Games and also a month before and after, foreign journalists will not be restricted in their work in reporting on the Olympic Games," according to a November 11 Agence France-Presse [report](#) available on the Australian Broadcasting Corporation Web site. Jiang also said, "if our Chinese rules conflict with the international rules, we would readjust our standards."

Jiang has said previously that [the BOOC would not accept interviews](#) with international news media by telephone, because the reporters might represent the Falun Gong spiritual movement. In September and October 2003, international news media, including the [Associated Press](#) (via the Washington Times), [London Telegraph](#), and [South China Morning Post](#), reported that the Ministry of Public Security had published an "Olympic Security English" manual for police which included a section entitled "How to Stop Illegal News Coverage." The manual contained the following sample dialog:

Policeman: What news are you permitted to cover?

Foreigner: The Olympic Games.

Policeman: But Falun Gong has nothing to do with the Games.

Foreigner: What does that matter?

Policeman: You're a sports reporter. You should only cover the games.

Foreigner: But I'm interested in Falun Gong.

Policeman: It's beyond the limit of your coverage and illegal. As a foreign reporter in China you should obey China law and do nothing against your status.

Foreigner: Oh, I see. May I go now?

Policeman: No. Come with us to the Administration Division of Entry and Exit of Beijing Municipal Public Security Bureau.

Foreigner: What for?

Policeman: To clear up this matter.

## Security Officers Detain Activist Hu Jia at Henan AIDS Conference

Public security officers detained human rights activist Hu Jia when he attempted to deliver a petition to Vice Premier Wu Yi at an AIDS conference in Henan province, according to a November 7 [report](#) by Radio Free Asia. Public security officials have also detained 30 other petitioners at the conference, according to a November 8 South China Morning Post [report](#) (subscription required). Authorities closed the conference to the public and prevented civil society groups from participating.

Hu Jia carried the petition on behalf of more than 50 AIDS patients from Henan province. Hu has served as executive director of the Aizhi Action Project, and has been involved in campaigns to free detained activists such as Liu Di. In August, security officers [beat him and placed him under house arrest](#) during the visit of Louise Arbour, the UN High Commissioner for Human Rights.

Henan province has one of the highest rates of HIV/AIDS infection in China, according to government statistics [reported](#) by Xinhua in November 2003. This high prevalence rate is primarily due to the illegal sale of blood by infected persons at plasma centers during the 1990s. As many as 230 plasma centers existed in Henan province before a government crackdown between 1995 and 1997, according to a November 2003 [report](#) in the Shenzhen Daily. For more information on the prevalence of HIV/AIDS in Henan province, see the transcript of an October 2003 CECC Roundtable, "[China's Mounting HIV/AIDS Crisis: How Should the United States Respond?](#)".

## Unregistered Catholic Bishop and Two Priests Detained in Hebei Province

Public security officers detained an unregistered Catholic bishop and two unregistered priests in Hebei province on November 7 and 8, according to a November 9 [report](#) by the Cardinal Kung Foundation (CKF), a U.S. NGO that monitors the religious freedom of Chinese Catholics.

On November 8, public security officers again detained Bishop Jia Zhiguo, who leads the Zhengding diocese in Hebei, at his home in Wuqiu village. Bishop Jia is among the leaders of the unregistered Catholic bishops in China, and has been profiled in reports in the [Washington Post](#) and the [London Telegraph](#). After detaining Bishop Jia, the security officers reportedly took him to Shijiazhuang, the Hebei provincial capital, for a "study session." Chinese authorities use such "study sessions" to pressure unregistered Chinese prelates to register with the state-controlled Catholic Patriotic Association (CPA). According to the November 9 CKF report, officials have detained Bishop Jia eight times since January 2004.

On November 7, public security officers detained Father Li Suchuan at his parish in Zhoujiazhuang and Father Yang Ermeng at his parish in Zhoutou, both in Dingzhou city. Fathers Li and Yang both serve in Bishop Jia's diocese and also have refused to register with the CPA. Father Li has been detained previously; on April 27, public security officers detained Li and six other unregistered priests after they attended a religious retreat conducted by Bishop Jia, according to a CKF [report](#) dated the same day. AsiaNews [reported](#) on May 4 that officials released Father Li several days later.

About 25 percent of China's Catholics live in Hebei province, where they face significant local government persecution. According to a September 27 AsiaNews [report](#), provincial officials currently are conducting a campaign of repression against Catholics in Hebei province. Thirty-one of 41 Catholic prelates in prison, under house arrest, or under strict surveillance on July 31 were from Hebei province, according to the CKF's list of [Prisoners of Religious Conscience for the Underground Catholic Church in China](#).

Additional information on Bishop Jia Zhiguo and the Catholic Church in China is available in the [2005 CECC Annual Report](#), Section III(d).

## Shanxi Authorities Arrest 293 Officials for Illegal Coal Mine Investments

Shanxi provincial authorities closed 2,203 illegal mines and detained 293 officials during a campaign against illegal coal mine investments and official collusion in their operations, according to a November 17 Legal Daily [report](#). An official investigation identified 950 officials who held illegal shares in state-owned coal mines worth 155 million yuan (\$19,176,527). Of these, the provincial government forced 871 officials to divest some 62 million yuan (\$7,679,730) in mining shares. The Legal Daily report added that some Shanxi officials used the names of friends and family members to conceal their illegal investments.

The State Council issued a [Circular](#) on the Immediate Closure and Rectification of Coal Mines Failing to Meet Safety Standards and Illegally Operating on August 22 that ordered government officials and managers of state-owned enterprises to divest all financial interests in coal mines (other than shares purchased in the public stock exchange) by September 22. The State Council directive followed an August 7 coal mine explosion in Meizhou, Guangdong province, that killed 123 people and led the State Council to investigate allegations that local government corruption contributed to the casualties (see an August 29 Xinhua [report](#) on the incident).

## Central Government Expands Provision of Legal Aid in Criminal Cases

The central government has issued a new regulation that will expand the scope of legal aid services available in criminal cases, according to a November 17 [analysis](#) in Dazhong Net, a Shandong provincial news site. The Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, and Ministry of Justice jointly issued their [Provisions on Legal Aid Work in Criminal Litigation](#) (2005 Provisions) on September 28. The 2005 Provisions go into effect on December 1, and the analysis notes that they will expand both the existing categories of criminal suspects and defendants entitled to a lawyer and the role of lawyers in the criminal process.

The 2005 Provisions make the following changes to existing law:

- **Categories of eligibility.** Under Article 34 of China's [Criminal Procedure Law](#) (CPL) and Articles 2, 3, and 4

of a 1997 [Joint Circular Regarding Legal Aid in Criminal Matters](#) (1997 Circular) issued by the Supreme People's Court and Ministry of Justice, a court must appoint a criminal defender only to those who are blind, deaf, mute, minors, or facing possible death sentences, and are not already represented by one. A court may refer the case to a local legal aid organization or judicial administration bureau if a defendant faces economic hardship or if the defendant has met specific criteria and the court believes that he or she requires a lawyer. Article 2 of the 2005 Provisions will now permit all criminal suspects and defendants who face financial hardship to be informed of their rights and to initiate an application for legal aid. In addition, it will also extend this right to victims and their close relatives facing financial hardship.

- **Lawyer's point of entry.** Article 151 of the CPL and Article 5 of the 1997 Circular require courts to assign cases to legal aid providers just ten days before trial. Under Article 4 of the 2005 Provisions, a criminal suspect or defendant can now make a request for legal aid representation as early as the investigation and indictment stages of the criminal process. Under Article 6, the public security bureau, people's procuratorates, and people's courts should transfer the request to a local legal aid organization within 24 hours of receipt. Under Article 7, the legal aid organization should immediately decide whether to provide legal aid and, within three days of making a decision, notify the criminal suspect or defendant in writing.

A November 2004 [article](#) in the Beijing Review highlighted some of the prospective changes in Chinese criminal procedure law and commented that "[t]he establishment of a legal aid system and ensuring the protection of the rights of underprivileged groups are ongoing in China's social development plans." Legal experts have repeatedly identified the ability of criminal suspects and defendants to gain access to legal representation as one area for reform and inclusion in the CPL amendment, as noted by the CECC in [February](#), [August](#), and [October](#). [Scholars have completed](#) a working draft amendment to the CPL, for review and comment by the implementing public security, procuratorial, and court agencies before final deliberation by the National People's Congress. The joint issuance of the 2005 Provisions shows some degree of advance consensus among public security, procuratorate, and court officials on the need to improve access to legal representation for criminal suspects and defendants.

## Senior Official Claims Foreign Newspapers Raise Threat of Color Revolution in China

Shi Zongyuan, Director of the [General Administration of Press and Publication](#) (GAPP), said that Chinese authorities have halted plans to allow foreign newspapers to print in China because of concerns raised by the recent "color revolutions" against Soviet-era leaders in Georgia, Ukraine, and Kyrgyzstan, reports a November 16 [article](#) in the Financial Times (subscription required). GAPP Deputy Director Liu Binjie [said](#) in November 2004 that China would "allow foreign newspapers to come and print in China . . . but their newspapers still have to go through the procedures for an imported product." Director Shi now says that "the 'color revolutions' were a reminder not to let saboteurs into the house and that the door must be closed, so we have closed it temporarily." According to Shi, "the role of the international media in such popular revolts had prompted the suspension of what had been a cautious, but significant easing of China's curbs on foreign news publications." Shi also told the Financial Times that any return to the liberalization policy depended on the conduct of foreign media.

The "significant easing" to which Shi referred is difficult to identify. The GAPP Director boasted in a June 2005 People's Daily [editorial](#) that his agency had "resolutely punished many instances of . . . unauthorized cooperation with foreigners," and while he did not provide any examples of "unauthorized cooperation," in the last year, the GAPP and its sister agency, the [State Administration of Radio, Film, and Television](#), have [enacted over half a dozen regulations](#) designed to limit foreign cooperation with, and access to, China's media industry, [increased restrictions on foreign participation in China's domestic television and film production](#), and [launched a crackdown on foreign periodicals](#).

## Supreme People's Court to Strengthen Handling of Citizen Petitions by Trial Judges

The Supreme People's Court (SPC) announced at a November 2 court conference that it will require all Chinese courts to establish systems of responding to citizen petitions and resolving citizen complaints following judicial decisions, according to a November 3 China Court [article](#).

Under the new system, trial judges who issue judicial decisions will be responsible for responding to parties who visit the court and raise questions or complaints about the verdict. Trial judges will work with docketing tribunal (li'an) judges to resolve complaints. The trial judges' record of handling such complaints will be made part of their regular performance reviews, along with their trial records.

Court authorities plan to implement this system in part to increase trial judges' awareness of and willingness to respond to citizen petitions, according to the article. The article specifically notes the need to increase the "xinfang awareness" of trial judges. Xinfang (letters and visits) offices exist in a number of government departments, including the courts, to handle citizen petitions for redress. (For more information on the xinfang system, see the Access to Justice sections of the Commission's [2004](#) and [2005](#) Annual Report.) The China Court article notes that courts have encountered several problems in responding to citizen petitions. Docketing tribunal judges, who generally are responsible for responding to citizen petitions, lack knowledge as to the facts of petitioners' cases. In contrast, trial judges see their role as to decide the legal cases before them, rather than to help end the citizen petitions that may result.

Parts of the SPC decision parallel new national xinfang regulations that the State Council issued earlier in 2005. Under the 2005 [Regulations on Letters and Visits](#), local governments must schedule "leadership responsibility days" to allow petitioners to

approach local officials directly. The new regulations also instruct local governments to assess how officials resolve citizen petitions as part of their annual performance evaluations. These similarities suggest that the central government plans to implement a common set of reforms relating to citizen petitions in both the courts and local governments.

The SPC reforms may not strengthen the Chinese judiciary in the long term, however. These reforms may encourage Chinese parties to lawsuits to resort to post-decision petitioning rather than appeals to reverse judicial verdicts, increase pressure on Chinese trial judges to alter verdicts to satisfy persistent petitioners, and weaken judicial finality. Similar incentives in the xinfang system more generally appear to be causing a rapid increase in the number of citizen petitions and a rise in mass petitions, as noted in the Access to Justice section of the Commission's [2004](#) and [2005](#) Annual Report.

## Ministry Proposes Revisions to the Laws on Villagers and Residents Committees

The Ministry of Civil Affairs (MOCA) has begun preparing proposals for revising laws on villagers and urban residents committees (VCs, RCs), the lowest level of governance in China. Provincial MOCA officials convened in Qingdao in late October to prepare proposals for draft amendments to the [Organic Law on Villagers Committees](#), according to a November 3 [article](#) posted on the Ministry of Justice (MOJ) Web site. A November 7 Legal Daily [article](#) notes that MOCA has submitted draft amendments to the [Organic Law on Urban Residents Committees](#) to the State Council.

Provincial MOCA officials propose to reform the Organic Law on Villagers Committees by focusing on five issues, according to the MOJ article:

- Allow the villagers representative assembly to choose the villagers election committee. The villagers assembly and villagers small electoral groups currently have this power.
- Regularize and clarify rules on campaigning. MOCA officials previously [have noted](#) that the absence of clear guidelines for how to conduct elections has resulted in corruption.
- Require townships to organize village recall elections, if a village fails to call the villagers assembly into session to handle a recall.
- Require outgoing villagers committees to give up official seals, stationery, office equipment, etc.
- Require that villagers committee members' term of office end automatically when they commit crimes, violate population and family planning policy, lose a Communist Party post, or are disciplined by the Party.

The proposed MOCA changes are limited, and do not address such issues as township government and local Party control over villager committees. With respect to those villagers committee members who are also Party members, the MOCA proposal would make Party control over their official village posts part of national legislation. Such a change would give Party officials an additional way to control the selection of village authorities. The Organic Law on Villagers Committees requires grassroots Party organizations to play a "core leadership role." For more information, see the Democratic Governance and Legislative Reform section of the Commission's [2005 Annual Report](#).

## Public Security Officers Detain Two Priests in Zhejiang Province

Public security officers detained two priests who are leaders of the unregistered Catholic community in Zhejiang province on October 27, according to an October 28 AsiaNews [report](#). The same day that officials detained Fathers Shao Zhumin and Jiang Sunian, the Italian newsmagazine L'espresso published an [interview](#) (in Italian) with the two priests and Father Wang Zhoufa, a fellow cleric. Public security officers detained Fathers Shao and Jiang in separate locations, shortly after they celebrated Mass to mark the close of the Year of the Eucharist before a congregation of about 600 Catholics. Father Wang apparently was not detained.

In the L'espresso interview, the priests described the persecution of Catholics in Wenzhou diocese, where the unregistered Catholic community suffered from a government campaign of persecution that began in 1999. The anti-Catholic repression continued for several years, but since 2003 the situation has been "[calm](#)," according to the October 28 AsiaNews article. AsiaNews [reported](#) earlier that in 1999 officials attempted to force unregistered Bishop Lin Xili and his clergy to join the official Catholic Patriotic Association. Authorities also demolished a number of Catholic churches and detained some unregistered priests and believers. Fathers Shao and Jiang were among those detained in 1999. In September of that year, Zenit news agency reported that [officials detained Father Shao](#) but released him without formal arrest. In a May 2000 article, Zenit [reported](#) that officials had detained Father Jiang in November 1999 and formally arrested him the following month. A court convicted the priest of illegally publishing hymnals, assessed a fine of about \$32,000, and sentenced him to a six-year term. He was released in December 2003.

Sources do not agree about the current status of Bishop Lin. According to a [Cardinal Kung Foundation press release](#) dated July 31, Bishop Lin remains in prison, but a March 5 [AsiaNews report](#) says that Lin is free but under surveillance.

Additional information on the persecution of Chinese Catholics is available in the [2005 CECC Annual Report](#), Section III(d).

## Religious Affairs Establishes Office to Administer "Folk Religions"

The State Administration of Religious Affairs (SARA) has established a special office to administer "folk religions" [minjian zongjiao], according to a September 20 [article](#) in the Hong Kong newspaper Ta Kung Pao. The Chinese government recognizes

only five official state religions: Buddhism, Catholicism, Daoism, Islam, and Protestantism. The [2005 State Department International Religious Freedom Report](#) section on China defined folk religions as "worship of local gods, heroes, and ancestors," and found that "hundreds of millions of citizens" practice folk religions.

In February 2005, Jin Ze, Deputy Director of the Institute on World Religions at the Chinese Academy of Social Sciences, [spoke](#) of a need to regulate folk religions in a way that would promote social stability. Robert Weller, Professor of Anthropology at Boston University, testified at a CECC Roundtable, [Unofficial Religion in China: Beyond the Party's Rules](#), in May 2005 and commented that making folk religions "official" could result in intrusive state controls on practitioners who until now have avoided the attention of the religion bureaucracy.

In March 2005, the State Council promulgated the [Regulations on Religious Affairs](#) (RRA), as noted in the CECC 2005 [Annual Report](#) section on Freedom of Religion. The RRA allow for the possibility of government recognition of other religious faiths besides the official five. Article 12 of the RRA says, "The collective religious activities of religious citizens shall generally be conducted on the premises of registered venues for religious activities (Buddhist temples, Taoist temples, mosques, churches, and other fixed places of religious activity)," permitting collective worship at sites other than temples, mosques, and churches of the five official faiths.

## Activist Li Jian Campaigns Against Government Restrictions on Internet News

Activist Li Jian issued a draft "opinion" on November 10 calling on the [State Council](#) and [National People's Congress Standing Committee](#) to review the constitutionality and legality of the [Rules on the Administration of Internet News Information Services](#) (Rules). The draft opinion declares that the Rules, which went into effect in late September and which [prohibit anyone from using the Internet to post news reports without prior government authorization](#), violate the Chinese Constitution and national laws.

Li posted the opinion on his [Citizen Rights Defender Net](#) Web site, and is soliciting comments and signatures until December 3. At present, co-signers include Beijing University law professor He Weifang, Chengdu University law professor [Wang Yi](#), and journalist [Wang Guangze](#). The opinion includes the following analysis:

- Articles 2, 33, 35, and 41 of China's [Constitution](#) provide respectively that (a) all power in China belongs to the people, and it is they who administer state affairs and manage economic, cultural, and social affairs; (b) the state respects and safeguards human rights; (c) Chinese citizens enjoy freedom of speech; and (d) Chinese citizens have the right to criticize and make suggestions to any state organ or functionary.
- Article 54 of China's [Criminal Law](#) states that the deprivation of political rights includes the deprivation of the right of freedom of speech. Therefore, the right to expression is a political right of the citizens.
- On the foregoing grounds, citizens have a constitutionally protected right with respect to "reporting and commentary relating to politics, economics, military affairs, foreign affairs, and social and public affairs, as well as reporting and commentary relating to fast-breaking social events."
- Articles 2, 5-12, and 16 of the Rules prohibit citizens from exercising this right on the Internet, and restrict this type of expression to government authorized Web sites.
- Article 8 of China's [Legislation Law](#) states that the deprivation of a citizen's political rights may only be done through a national law, and that the State Council and its subordinate agencies lack the authority to adopt a rule to this effect.
- The Rules, which were promulgated by the [State Council Information Office](#) and the [Ministry of Information Industry](#), therefore violate China's Constitution and national laws.

Li originally established the Citizen Rights Defender Net Web site in Beijing, but that city's press and publication administration [shut down the Web site](#) in September 2004. The Web site is currently based in the United States. At least one of the participants in the campaign, Wang Yi, has experienced censorship regarding the opinion, writing on his blog that his hosting service had [deleted his post on the issue](#). This deletion may have been the result of a government order or the hosting service's [self-censorship](#), but the facts are not clear. Since Chinese laws and regulations provide no clear guidance about what kind of political or religious expression is illegal, self-censorship has been a particular problem for Internet companies operating in China. To enforce vague rules, authorities [imprison writers](#), [indoctrinate publishers](#), and [ban publications](#) to induce companies to self-censor and to "choose" not to allow citizens to use their products and services to publicize certain views. See Section III(d) - "Freedom of Expression" of the Commission's [2005 Annual Report](#) for additional information regarding self censorship in China.

## Public Security Officers Detain House Church Protestants in Henan Province

Public security officers raided a Protestant house church in Henan province on November 6 and detained six house church leaders, according to a November 7 [report](#) by the China Aid Association (CAA), a U.S. NGO that monitors the religious freedom of Chinese Protestants. Yuan Quansan, Zhang Xiaowu, He Zhanying, Wang Jianzhong, and two unnamed men were detained in the raid. By the end of the following day, public security officials had released all but Yuan Quansan and one of the unnamed men. According to CAA, officials told Yuan and the unnamed church leader that their release is contingent on their promise to stop gathering house church believers for worship and other activities, unless the churches join the Three Self Patriotic Movement (TSPM). The TSPM is the government-controlled national Protestant organization.

The CAA press release also reported the detention of approximately 12 unnamed Protestant house church leaders in Hunan province since July 2005.

These arrests continue a series of raids on house church gatherings in Henan and neighboring provinces, including raids in [May and June](#), [July and August](#), and a detention on [October 27](#).

For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

## Central Government Takes Further Steps to Control Avian Flu

The State Council issued the [Emergency Response Regulations for Major Epidemics of Animal Diseases](#) on November 16, in an attempt to ensure accurate reporting of avian flu outbreaks in poultry. Under the new regulation, provincial governments must report "major" animal epidemics to the State Council within four hours of discovering them, and county and city governments must report cases to provincial authorities within two hours. Officials found negligent in reporting outbreaks now face removal from office, and potential prosecution.

One of the major challenges to central government efforts to control avian flu is accurate and timely reporting of outbreaks by local officials. Before the new State Council regulation was issued, Liaoning provincial officials arrested the head of veterinary services in Badaohao Township for attempting to cover up the illnesses of chickens at local farms following avian flu outbreaks. Provincial authorities also disciplined seven other officials, according to a November 19 [article](#) by the Toronto Globe and Mail (subscription required).

To control and prevent further avian flu outbreaks in domestic poultry, the Ministry of Agriculture announced a plan to vaccinate China's entire poultry population, which totaled 5.2 billion birds in 2004, according to a November 15 International Herald Tribune [report](#). One significant challenge facing the nationwide vaccination scheme is the sale of fake vaccines, as detailed in a November 26 Beijing News [report](#). A November 21 [article](#) in the Standard also described official investigations that suggest that several rapid outbreaks of avian flu in Liaoning province resulted from the sale of fake vaccines by the subsidiary of a state-controlled company.

Agriculture Ministry officials widely employ culling of poultry to prevent the spread of avian flu. A November 12 China Daily [report](#) posted on the Xinhua Web site quoted Vice Minister of Agriculture Ying Chengjie as expressing concern over the economic loss suffered by poultry farmers following culling in provinces affected by avian flu outbreaks. Ying explained in a seminar in Beijing that the government has compensated farmers 10 yuan for each bird killed, but that "it cannot make up for the huge losses for farmers." Poultry farmers in Liaoning province and the Inner Mongolia Autonomous Region revealed in interviews that some farmers received less than the state-mandated compensation, according to reports by [Radio Free Asia](#) and the [Los Angeles Times](#). Both reports raise questions about the efficacy of some local governments' compensation schemes.

Chinese authorities have confirmed 30 avian flu outbreaks in poultry in 2005. They also have reported three cases of avian flu infection in humans, of which two were fatal.

## Reforms to Household Registration System Under Consideration

Public Security Vice Minister Liu Jinguo told an intergovernmental working group on migrant issues in late October that the government is considering national reforms to China's household registration (hukou) system, according to an October 26 Legal Daily [article](#). Liu did not say, however, when the reforms would be adopted or implemented. Liu is the latest in a [series](#) of government officials to raise the subject of hukou reform since the Communist Party plenum concluded in October.

Liu said that local governments should (1) take migrant interests into consideration in the drafting of local development plans; (2) make serious efforts to address migrant housing, education, and health care needs; and (3) strive over time for equality in job opportunities between urban and rural workers. Liu also said that public security officials currently are studying hukou reform proposals aimed at eliminating the distinction between agricultural and non-agricultural hukou types. Public security officials in 11 provinces have already adopted similar reforms, according to an October 28 Xinhua [article](#).

Vice Minister Liu's speech suggests that the government may undertake a limited degree of hukou reform, but most likely does not signal the abolition of all hukou restrictions. Some [Chinese](#) and [U.S.](#) news media have characterized the provincial reforms as eliminating all legal distinctions between urban and rural residents, but this characterization is incorrect. Chinese hukou registration has two independent components: an agricultural/non-agricultural distinction, and a local/non-local distinction. Abolition of the former does not affect the latter. Chinese migrants must obtain local hukou in urban areas in order to receive social services and benefits on an equal basis with other urban residents. Reforms that only eliminate the distinction between agricultural and non-agricultural hukou neither abolish the local/non-local distinction nor eliminate the hukou system entirely. For more information, see the Commission's topic paper ([HTML](#), [PDF](#)) on the Chinese hukou system and recent government reforms.

Vice Minister Liu also said that Chinese authorities will provide relaxed treatment only to those migrants who possess a "legal, stable place of residence," according to the October 26 Legal Daily [article](#). Some authorities have used strict interpretations of similar economic criteria to limit the ability of low-income migrants to acquire local hukou and receive urban social services.

Publicly available details of the reform plans appear generally consistent with the periodic bursts of hukou reform activity that Chinese national and provincial authorities have conducted over the past several years. Vice Minister Liu's statements may

indicate that Chinese authorities have decided to restart these reform efforts. For more information, see the [chart](#) of various national and provincial hukou reforms through the end of 2004 on the Freedom and Residence [page](#) of the Commission's Web site, the Commission's [2004](#) and [2005](#) Annual Reports, and the Commission's recent [roundtable](#) on hukou reform.

## Monk Dies Following Dispute with Patriotic Education Instructors

Monks at Drepung Monastery in Lhasa, Tibet Autonomous Region (TAR), found 28-year-old monk Ngawang Jangchub dead in his room in early October, the day after he argued with instructors teaching "patriotic education" classes at the monastery, according to a November 8 [report](#) by the Tibetan Centre for Human Rights and Democracy (TCHRD). Ngawang Jangchub apparently refused to comply with a requirement to denounce the Dalai Lama as a "splittist" and pledge loyalty to the Chinese government, requirements under patriotic education, and defended the Dalai Lama's role as a Buddhist leader. In addition, he said that Tibet is not a historical part of China. Ngawang Jangchub reportedly told instructors that he knew he could face expulsion from the monastery for making the remarks, but that he did not regret his words. Monks discovered Ngawang Jangchub's body the next day, after he failed to report for patriotic education class, and speculated that he may have committed suicide. Officials began conducting patriotic education classes in other Lhasa area monasteries and nunneries in April, according to an October TCHRD [report](#).

The Chinese government and the Communist Party mandate patriotic education to promote Tibetan patriotism toward China and end the Dalai Lama's influence among Tibetans. Officials carried out an intensive campaign of patriotic education from 1996-2000 that reached monasteries and nunneries throughout Tibetan autonomous areas of China. In 2002, the [Propaganda Department](#) of the TAR Communist Party Committee distributed a patriotic education training manual entitled, "A Reader for Advocating Science and Technology and Doing Away with Superstitions" (translated by International Campaign for Tibet in [When the Sky Fell to Earth: The New Crackdown On Buddhism in Tibet](#), 2004). The manual asks, "Why do we conduct patriotic education among monks and nuns in the monasteries?" and provides the answer: "Conducting patriotic education among the monks and nuns in the monasteries is an important aspect of strengthening the management of religious affairs by the government. . . . Dalai's bloc has never stopped penetrating and engaging in splittist activities in our region under the support of international antagonistic forces. . . . The monks and nuns should be religious professionals who love the country, love religion, obey the discipline and abide by the law."

Chinese authorities have detained or imprisoned nearly 100 Drepung monks since 1987, when Drepung monks marched in a peaceful protest that began the current period of Tibetan political activism, according to information in the [CECC Political Prisoner Database](#). Available information shows that authorities detained or imprisoned 20 Drepung monks between 1996-1999, during an intensive period of patriotic education. The CECC has no reports of Drepung detentions in 2000 or 2001. Authorities imprisoned five Drepung monks in 2002 after another patriotic education program, based on CECC analysis of reports than include an August 2002 Reuters [report](#) (reprinted in World Tibet Network). Ngawang Jangchub's death at Drepung occurred during the first major instance of political education since the 2002 program.

Additional information about patriotic education and religious freedom for Tibetan Buddhists is available in the [CECC 2005 Annual Report](#).

## Additional Details Emerge on Religious Crackdown in Lhasa

Police in Lhasa, Tibet Autonomous Region (TAR), interrupted a July prayer session at one of Lhasa's principle monasteries, "fired" the presiding monastic official, and subjected him to one year of surveillance (see [Criminal Procedure Law](#), Chapter VI), according to a November 18 Radio Free Asia (RFA) [report](#). Jangchub Gyaltsen, a "disciplinarian" at Sera Monastery who was responsible for ensuring that monks adhere to monastic rules, was reading aloud a prayer request that a Tibetan worshipper asked another Sera monk, Tsering Dondrub, to write. Public security officials heard Jangchub Gyaltsen read a reference to the Dalai Lama and seized the paper slip from him, according to an RFA source who spoke on the condition of anonymity. Sera officials (probably members of Sera's Democratic Management Committee) expelled Jangchub Gyaltsen from the monastery. Tsering Dondrub "disappeared" after the incident, but monks heard later that police detained him in July and held him at the Lhasa PSB Detention Center (Gutsa). Authorities at the detention center accepted food and clothing that relatives left for him, but no further information about him is available. Police allegedly accused Tsering Dondrub of possessing and distributing documents that criticized Chinese "rule over traditionally Tibetan areas" and "advocated Tibetan independence," according to RFA's source.

The incident coincided with the end of a three-month session of patriotic education at Sera during which officials reportedly expelled 18 monks, of whom police detained 8, according to an October 13 [report](#) by the Tibetan Centre for Human Rights and Democracy (TCHRD). Whether or not those totals include Jangchub Gyaltsen and Tsering Dondrub is unknown. According to TCHRD, during the session officials required the monks to study six texts in preparation for examinations: "Handbook of History of Tibet," "Handbook on Crushing the Separatists," "Handbook of Policies on Religion," "Handbook on Law," "Handbook of Contemporary Policies," and "Handbook on Ethics for the Masses."

The 2005 patriotic education campaign is similar to the intensive five-year patriotic campaign that Chinese authorities began in 1996. The Office for the Propagation of Patriotic Education in Monasteries Throughout the Tibet Autonomous Region issued a four-volume set of texts in 1996 that monks and nuns were required to study, according to Tibet Information Network (TIN News Review No. 25: Reports from Tibet 1996, March 1997, 53.). The 1996 titles are similar to the current texts: "No. 1: Brief Explanation and Proclamation on Tibetan History," "No. 2: Brief Explanation and Proclamation on Opposing Splittism," "No. 3: Brief Explanation and Proclamation on Knowledge about the Law," and "No. 4: Brief Explanation and Proclamation on Religious

Policy." Officials detained at least 13 monks during a three-month patriotic education course at Sera in 1996, according to a TIN report ("Re-education Drive: Sera Monks Issue Statement - Arrests Rise to 13," September 18, 1996).

Authorities have detained or imprisoned 42 Sera monks since 1988, based on information in the [CECC Political Prisoner Database](#) (PPD). Patriotic education was a factor in all 11 of the 1996 cases recorded in the database. The level of political activism by Sera monks appears to have decreased significantly, based on a comparison of the 18 detentions resulting from political expression or activism between 1991-1995 (before the 1996 patriotic education course at Sera) and the three detentions between 2000 and 2004. According to available PPD information, no detentions at Sera were recorded after 2001.

Unlike in 1996, when political protests by Tibetans were more frequent and the number of Tibetan political prisoners was more than five times higher ([see CECC 2005 Annual Report](#), p. 112), Chinese authorities launched the 2005 patriotic education campaign at a time when available information suggests that overt political activism by Tibetans has declined and there are fewer new cases of political imprisonment. The 2005 campaign risks increasing resentment among Tibetans against the Chinese government's policy on religion.

## Procuratorate Indicts Feng Bingxian and Three Other Shaanxi Oil Investors

The local procuratorate in Jingbian county, Shaanxi province, has indicted Feng Bingxian and three other oil investors for "gathering a crowd to disturb social order," according to an October 27 [report](#) by the Voice of America (VOA). Local officials released Feng Xiaoyuan, Kong Yuming, and Wang Shijun on bail, but have kept Feng Bingxian in detention. Feng's son formally retained Beijing lawyer Mo Shaoping to assist in the criminal defense. According to the VOA report, Mo will travel to Jingbian during the week of October 31 to visit his client, formalize his representation, access the procuratorate's evidence files, and push for a trial date.

The VOA report traces the Shaanxi oil case back to 2003, when officials in Yulin and Yanan cities illegally seized more than 5,000 oil fields after encouraging private investment in the properties. According to a July 11 [article](#) in China Reform magazine, posted on the Xinhua Web site, the seizures affected over 60,000 private investors and properties with an estimated worth of 7 billion renminbi. Feng served as a representative on behalf of the investors during their attempts to petition provincial and municipal government authorities. The indictment against Feng and the three others focuses on two meetings that they arranged with government officials, according to the VOA. Five of the nine representatives were taken into custody days after a May 10 meeting with officials. Local officials subsequently [lured Feng out of hiding](#) with a forged e-mail and detained him on July 26, according to an August 19 [article](#) in the Washington Post. The procuratorate charges that the presence of too many representatives at these meetings resulted in traffic congestion, disturbance of social order, and interference with the work of the government.

Public security officials also detained Beijing lawyer Zhu Jiuhu, who represented the investors, on May 25. Zhu's case drew outrage from the legal community and prompted a group of prominent Chinese lawyers to [publish an open letter](#) calling for investigation of his detention. Authorities [released Zhu on bail](#) in September and have not yet issued an indictment in his case.

The indictment of Feng Bingxian comes at a time when the Chinese government has widely publicized its efforts to increase legal protection for property rights. In March 2004, the National People's Congress (NPC) passed a series of constitutional amendments expanding property rights protection. The NPC is currently deliberating over [public comments](#) on a [draft Property Law](#). The VOA report noted concern from the Chinese legal community that Feng's case pointed to unchecked abuses by local government officials and continuing restrictions on the ability of citizens to exercise their lawful property rights.

## NPC Members Suggest Public Hearings on Draft Laws of Public Interest

Five members of the National People's Congress (NPC) Standing Committee have expressed support for holding public hearings for all draft laws that are of interest to the general public, according to an October 25 China Youth Daily [report](#) posted on the Xinhua Web site.

On September 27, the NPC held its first public hearing on a draft amendment to the Law on Personal Income Tax, according to a Xinhua [article](#) published on the same day. NPC officials chose 20 people, including academics and migrant workers, from among nearly 5,000 applicants to offer opinions on a proposal to raise the minimum taxable income. The 2000 [Legislation Law](#) codified the use of public hearings, and local people's congresses have begun to use them more often to solicit the views of citizens on pending legislation. For more information, see the Democratic Governance and Legislative Reform section of the Commission's [2005 Annual Report](#).

NPC Standing Committee members point to the recent hearing as evidence of progress toward legislative transparency and the rule of law. But opinions expressed at such hearings are not binding on NPC members considering draft legislation, notes a September 30 China Youth Daily [article](#). While the hearings offer a method for citizens to express their views to the NPC, the practice of screening and selecting the applicants wishing to appear at these sessions limits the range of views that the public may convey to NPC members.

## Beijing Officials Order Gao Zhisheng to Shut Down His Law Firm

The Beijing Justice Bureau ordered prominent rights advocate Gao Zhisheng to shut down his law firm and stop practicing law for one year beginning on November 4, according to reports from the [China Aid Association](#), [Washington Post](#) (registration

required), [BBC](#), and [Radio Free Asia](#) (RFA). Gao told the Washington Post that government officials had rejected the Beijing Shengzhi Law Firm's attempt to register a new address when it moved to a new office in early 2005. The Beijing Justice Bureau now bases its action on the firm's failure to register its new location. Gao has said that he plans to challenge the suspension through a formal hearing. In the November 6 RFA report, Beijing lawyer Pu Zhiqiang noted that Bureau authorities may either permit Gao to continue his practice or suspend his license once they lift the one-year restriction.

The Washington Post and BBC attribute the latest move against Gao to retaliation for his refusal to withdraw an open letter sent to President Hu Jintao and Premier Wen Jiabao on October 18. According to the [BBC](#), Gao's open letter called attention to the "barbaric persecution" of Falun Gong members. Pu Zhiqiang speculated that this may have been just one of several reasons for increased government harassment of Gao. Gao has represented numerous activists and taken on sensitive cases of particular interest to news media and human rights groups in 2005. Since mid-October, public security officials have conducted several searches of his law firm offices, confiscated files, and investigated his finances, according to a November 3 [report](#) from RFA. Authorities focused their investigation on Gao's involvement in the [recall campaign](#) against a local village committee chief in Taishi, Guangdong province. Gao was preparing a request for bail on behalf of [Guo Feixiong](#), an affiliate of Gao's law firm and peasants' rights activist involved in that case. The China Aid Association observed that Gao received news of the suspension just hours after filing a request for bail on behalf of Xiao Yunfei, the detained wife of house church leader Pastor [Cai Zhuohua](#). In an [article](#) by the South China Morning Post (SCMP) (subscription required), Gao spoke out against the prison sentences given to Pastor Cai, Xiao, and Xiao's brother on November 8. In defiance of the suspension order, he also appeared in court on November 7 on behalf of dissident author [Zheng Yichun](#), according to the [Epoch Times](#). Gao also previously represented activists [Xu Wanping](#) and [Guo Guoting](#).

The November 4 action against Gao continues a trend of government harassment and prosecution of legal professionals.

- In February, the Shanghai Justice Bureau issued a notice suspending the law license of defense lawyer [Guo Guoting](#). As a result of this suspension, Guo was unable to appear in court on behalf of imprisoned journalist [Shi Tao](#). Guo reportedly called his suspension "unjustified official punishment" and alleged that the government was trying to silence him for defending other activists.
- In May, Shaanxi authorities detained [Zhu Jiuhu](#), the lawyer representing thousands of private oil investors in an administrative lawsuit against the Shaanxi province, Yulin city, and Jingbian county governments. Gao served as Zhu's criminal defense lawyer until authorities forced Zhu to end their relationship, according to a September 25 [article](#) by the SCMP. Gao then took over representation of the investors in their administrative suit against local government. On October 27, the [Voice of America](#) quoted Gao as insisting that his firm would "use our best efforts to proceed in a lawsuit against the three levels of government - Shaanxi province, Yulin city, and Jingbian county." On November 5, following his suspension, he told [BBC](#): "If, during this one year, I do not respect [the Beijing Justice Bureau's] orders, it is very likely that my personal liberty will be at stake." Authorities have now prevented the Shaanxi oil fields case from proceeding in court by placing restraints on both Zhu and Gao, and [formally indicting](#) the case's main plaintiffs.

Additional information on "Access to Counsel and Right to Present a Defense" is available in the [2005 CECC Annual Report](#), Section III(b).

## Deadline Nears for Release of Rural Activist Guo Feixiong

Lawyers for rural activist Guo Feixiong are taking advantage of a December 27 deadline to request his release from detention, according to articles in the South China Morning Post (SCMP) (subscription required) on November [10](#) and [16](#). The filing of their request on November 11 comes two weeks after the Panyu District Procuratorate returned Guo's case to public security officials for further investigation. Guo remains in official custody and has ended the hunger strike that he began on September 13 to protest his detention.

The procuratorate's "Return for Verification Notification from the Panyu District Procuratorate" (Notification), posted November 8 by Chengdu University Law Professor Wang Yi on his [blog](#), says:

After examining [Guo Feixiong's] case, this office has decided to return the case for verification. Criminal suspect is now detained at Panyu District Detention Center, Guangzhou Municipality, [and the] legal detention period ends on December 27, 2005. According to the PRC Criminal Procedure Law regulations, during this time, now [we] inform you that you have rights to apply for changing compulsive measures. In the case of exceeded detention, you have rights to file suit with the supervision department of this procuratorate.

Article 140 of China's [Criminal Procedure Law](#) (CPL) authorizes the procuratorate to request up to two supplementary investigations when necessary. In ordinary criminal cases, each supplementary investigation imposes a one-month time limit on investigators and grants the procuratorate one additional month to decide whether to proceed with prosecution. During the period of supplementary investigation, public security officials may continue to detain the criminal suspect. According to the November 10 SCMP article, Guo's lawyers did not find it out of the ordinary that their client's case was returned for supplementary investigation. Nonetheless, Professor Wang has analyzed the procuratorate's Notification, including its explicit mention of a December 27 deadline for Guo's release, as a sign of disagreement between the Panyu Public Security Bureau and the Panyu Procuratorate about whether to prosecute Guo.

Authorities formally arrested Guo Feixiong, whose real name is Yang Maodong, on October 4 for "gathering people to disturb public order," a crime under Article 290 of the [Criminal Law](#). Chinese scholars and legal experts have [questioned the legality](#) of Guo's detention and other related government actions designed to [suppress](#) a recall campaign by villagers in Taishi village, Guangzhou city, against an allegedly corrupt village committee head. In the wake of the failed recall campaign, Chinese authorities detained dozens of Taishi villagers, [shut down](#) several Web sites describing local protests, and allegedly permitted the [beating](#) of several reporters on the scene.

Although the procuratorate's returning the case for supplementary investigation indicates that the evidence currently in hand is inadequate to prosecute Guo, the issuance of a Notification does not guarantee that he will be released imminently. On November 4, Gao Zhisheng, Guo's lawyer, received an order to [shut down his law firm](#). Gao commented in the November 10 article by SCMP that he fears making an appearance on behalf of his client in Panyu "because [the authorities] have spread word around: 'Take care of Gao Zhisheng by any means if he shows up in Guangzhou.'" Professor Wang noted that "[u]nless a lawyer takes over the case, Guo's right to defense will not be protected and the opportunity to apply for 'changing compulsive measures' may be missed." Chapter 6 of the CPL defines "compulsive measures" as restraints on a criminal defendant's personal freedom and includes detention.

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## Shenzhen Public Security Authorities Release Activist and Journalist Liu Shui

Authorities in Shenzhen released activist Liu Shui on November 2, after he had completed 18 months of a 2-year administrative detention sentence, according to a November 4 Radio Free Asia (RFA) [report](#) (in Chinese). Liu told RFA that authorities required him to sign a written pledge that he would return to appear in court when summoned. Authorities also required him to pay over 4,700 yuan in room, board, and medical fees, according to a November 7 [report](#) on the Epoch Times Web site.

The RFA report speculated that Liu's early release may have been connected with U.S. President George W. Bush's visit to China in mid-November. RFA quoted Sichuan professor and political commentator Wang Yi as saying "Hostage diplomacy is arranged for these kinds of times, but when they let one person go, they have to replenish their stock. Liu Shui is released, Xu Wanning is detained."

Public security officials detained Liu on May 2, 2004, for soliciting prostitution, and three days later sentenced him without trial to two years of "custody and education." The Committee to Protect Journalists (CPJ) said in a May 2004 [press release](#) that before his detention Liu worked as an editor and reporter for such publications as the Southern Metropolitan Daily and the Shenzhen Evening News. Immediately before he was detained, CPJ reported, Liu had posted a number of essays on Chinese language Web sites hosted overseas, including the following:

- On April 23, 2004, Liu reported on an anti-corruption protester whom police beat and detained in Shanghai; and
- On April 27, 2004, Liu interviewed the families of Xu Wei, Jin Haike, Yang Zili, and Zhang Honghai (sometimes referred to collectively as the "New Youth Study Group"), who were imprisoned in September 2001 for publishing political and social commentary on the Internet.

"Custody and education" is a form of administrative detention. Chinese law allows public security authorities to deprive Chinese citizens of their liberty through administrative detention without judicial review or the minimal procedural protections that the Criminal Procedure Law provides to criminal defendants. According to Xinhua, public security agencies handled over 5 million public order cases involving more than 10 million people in 2004.

In February 2005, the UN Working Group on Arbitrary Detention [released an advance version of the report](#) on its September 2004 mission to China in which it criticized the government's failure to create real judicial oversight of administrative detention. The Working Group concluded that Chinese citizens enjoy "no genuine right to challenge administrative detention." The National People's Congress Standing Committee [passed a new Public Order Administration Punishment Law](#) in August 2005 to provide a basis in national law for the government's use of administrative penalties, including fines and administrative detention, against offenders of "minor crimes."

For more information on administrative detention in China, see Section III(b) - Rights of Criminal Suspects and Defendants, of the Commission's [2005 Annual Report](#).

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## Rise in Collective Disputes Attributed to Weak Protections of Worker Rights

About 5,000 workers took part in a mass protest in Shenzhen on November 4, seeking to draw attention to claims of inadequate compensation for their dismissal from state-owned enterprises following restructurings, according to a November 5 Radio Free Asia [report](#). Workers from three separate factories protested, and five detentions resulted.

Weak protection of worker rights has led to a sharp rise in collective labor disputes, according to Chinese scholars Qiao Jian and Jiang Ying in an article entitled "An Analysis of Labor Disputes and Mass Incidents During Marketization." [2005 nian: Zhongguo shehui xingshi fenxi yu yuce], (Beijing: Social Sciences Data Press, 2005), 297-314.] The number of mass labor disputes increased from 1,482 in 1994 to 11,000 in 2003, with 52,637 workers involved in 1994 and some 515,000 in 2003. Participants in all labor disputes rose from 77,794 in 1994 to about 800,000 in 2003. Mass labor incidents, such as strikes, marches, demonstrations, and collective petitions directed at the Chinese xinfang ("letters and visits") system, have increased in recent years. During the first half of 2002, there were 280 mass labor incidents of 100 workers or more, a 53 percent rise on the

previous year. In 2003, mass incidents involving currently employed, laid off, or retired workers constituted 46.9 percent all mass incidents, making labor disputes the chief source of mass incidents.

Low wages and unpaid back wages are major causes of labor disputes, according to Qiao and Jiang. During the first half of 2002, about 91 mass incidents involved worker demands for higher wages or unpaid back wages. According to the All-China Federation of Trade Unions, 288.9 billion yuan in unpaid back wages was paid to workers in 2003, while 301.7 billion yuan in new unpaid back wages accumulated during the same period. Salaries for employees in state-owned enterprises have not kept pace with overall economic growth. Annual salaries for migrants in Guangdong have not improved significantly during the last 20 years, and have fallen since 2000.

Qiao and Jiang also identify the lack of retirement insurance and inadequate layoff compensation as major causes of labor disputes. During the first half of 2002, 58 mass incidents involved demands for improved retirement insurance, 32 incidents involved demands for better layoff compensation, and 26 incidents involved demands for better housing after an enterprise closed. Some 47,000 workers were involved in incidents demanding retirement insurance between January and June 2002, 5.2 times the number that participated in similar incidents during the same period in 2001. Worker demands for layoff compensation involved about 45,000 participants, 3.2 times greater than the same period in 2001, and some 20,000 participants were involved in incidents about enterprise reform and better living arrangements, 2.5 times more than during the same period in 2001.

Qiao and Jiang advocate greater protection for worker rights to reduce mass incidents and preserve social stability. Qiao and Jiang argue that government supervisory organs are the most important tool in enforcing labor regulations, but their frequent refusal to hear labor disputes fuel social instability. The authors believe that the creation of independent labor unions would strengthen the ability of workers to negotiate with management. Qiao and Jiang suggest the creation of a special committee of the National People's Congress to enact necessary reforms in labor legislation, including the right to strike.

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## Party Propaganda Chief Calls for Increased Control Over the Media

Liu Yunshan, a Communist Party Central Committee member who also serves as secretary of the Secretariat and Director of the [Central Propaganda Department](#), set out the tasks and issues that Party propaganda officials should focus on in 2006 during an August 23 speech at the National Propaganda Directors Seminar. The Central Committee subsequently published the text of this speech in the October 1 edition of its official journal, [Seeking Truth](#), (in Chinese) under the title "In Accordance With the Requirements of Building a Socialist and Harmonious Society: Deepen, Broaden, and Innovate Propaganda Ideological Work." Liu called on Party propagandists to focus on ensuring that China maintains a single and unified "guiding ideology," -- Marxism. To achieve this goal, the propaganda departments should create a "[harmonious public opinion environment](#)," "[sing the main theme](#)," "forcefully" [promote nationalism and patriotism](#), and research what he termed the four "how-tos":

- How to consolidate Marxism as China's leading ideology.
- How to simultaneously open to the outside world while preventing "[Western enemy forces](#)" from using their "economic and technical superiority to carry out ideological infiltration and cultural expansion" in order to "Westernize and divide" China.
- How to "capture the high ground" of information dissemination.
- How to satisfy the increasingly diverse "spiritual cultural demands of the masses."

The following are some of the themes articulated in Liu's speech:

**[Increase government control over the media.](#)** According to Liu, Party propagandists should promote prosperity and development by "ceaselessly raising the level of supervision." In order to do this, the Party must develop "[innovative supervision methods](#)," impose content controls earlier in the editorial process ("[guankou qianyi](#)"), and coordinate the application of [administrative](#), [economic](#), [legal](#), [ideological education](#), and other controls. Liu said it was necessary to "increase the establishment of [laws and regulations](#)," "[strengthen supervision mechanisms](#)," and "coordinate a legal framework for a unified propaganda culture with [Chinese socialist characteristics](#)."

**Co-opt new technologies.** Liu told the seminar that "whoever grasps the newest technological measures will have their information disseminated most quickly and broadly, and will have the strongest influence," and that the Party must therefore "utilize technological achievements in propaganda work, and increase the pace of the adoption of high technology in film and television production, television transmission, and book and periodical printing, and promote the mutual coordination of [traditional media](#) and the [Internet](#) and [mobile communications](#)."

**Focus on new targets for propaganda.** Liu noted that Chinese society is becoming increasingly complex as it shifts from one dominated by people employed in state run enterprises to one in which more and more people work for private enterprises. Given this shifting demographic, Liu noted that, while it remains necessary to continue to conduct "[ideological education](#)" of workers, farmers, intellectuals, soldiers, and cadres, Party propagandists must also "expand the targets of propaganda ideology work" to new groups. Examples of new groups that Liu said the Party should target include:

- Social groups, such as "the founding personnel and technical personnel of private scientific enterprises, supervising technical personnel hired to work at foreign invested enterprises, entrepreneurs, proprietors of private enterprises, those employed at mid-level organizations, and freelance professionals." Liu said the Party should use "targeted propaganda education and positive guidance to motivate them to contribute their energies toward making the nation prosperous and strong, the people happy, and society harmonious."

- Intellectual groups, including young intellectuals. Liu said the Party should "strengthen links and communication with, actively organize, rely upon, and guide them to give rein to the important functions they should have as society transforms and ideological cultures agitate at one another."
- Youth groups. Liu said the Party should "strengthen and improve the establishment of minors' ideological morality and university students ideological political education in a practical manner," and "actively and concretely merge socialist ideological morality into every stage of young people's growth."
- Troubled groups, including unemployed workers in cities, migrant workers, farmers who have lost their land, the elderly, and the disabled.
- Cultural groups. According to Liu, this group includes "non-governmental social science research agencies, cultural offices, cultural operation agencies, cultural artistic groups, cultural intermediary consulting agencies, and there has appeared a large number of freelance writers, news stringers, independent performers, and cultural brokers."
- Foreigners. Liu said the Party should "[expand the battlefield](#)" of foreign propaganda and implement a strategy of "moving outward."

**[Require media outlets to impose stricter self-discipline.](#)** Liu said that social groups and professional organizations can "unite the demands of the Party and the government with the wishes of the employees," and therefore it is necessary to "merge propaganda ideology work into the self-supervision of mass groups and professional organizations." According to Liu, requiring these groups and organizations to "tightly integrate professional discipline and restraint with professional moral restraint" will allow employees to "voluntarily" accept government supervision.

**[Oppose competition from foreign news by disseminating propaganda with content that viewers will enjoy.](#)** Liu called on propaganda officials to leverage the advantage provided by the large circulation and distribution of the Party's newspapers, magazines, radio stations, and television channels to guide public opinion in an "intimate, natural, quiet, unobtrusive manner." To do this, Liu said the Party must make better use of the mass media "to allow the masses to love what they see and hear," as this would make them more apt to accept the Party's propaganda. The measure of the propagandists' success, according to Liu, would be "whether or not the masses are satisfied, whether or not the masses are happy."

Liu stressed substantially the same themes in a [speech at the same event in 2004](#). But unlike the 2005 address, Liu's 2004 remarks did not address the increasing importance of social and professional organizations in Chinese society, and the challenges they pose to the Party's efforts to control ideology through propaganda. The Central Propaganda Department's increased focus on these groups coincides with the Party's and the government's [increased scrutiny and regulation of civil society organizations](#) over the past year, such as [environmental groups](#) and [social science research organizations](#).

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## Research Outlines Healthcare Challenges Faced By Rural Residents

New research shows that residents of large cities in China live 12 years longer than rural residents, and that the infant mortality rate is nine times higher in rural areas than in large cities, according to a November 17 Beijing News report [posted](#) on the Xinhua Web site. Dr. Zhao Zhongwei, a professor at the Australian National University, presented the results of a study entitled "Establishing a Harmonious Social Environment: Reducing China's Mortality Rate, Successes and Challenges," at a November 16 forum in Beijing. The study showed that from 1977 to 2002, the number of doctors in rural China decreased from 1.8 million to 800,000, and the number of rural health care workers decreased from 3.4 million to 800,000. The study also found that 80 percent of the rural population lacks health insurance.

In a November 18 [interview](#) with the China Youth Daily, Yang Lixiong, a social security expert and associate professor at the People's University Social Security Research Center in Beijing, detailed the results of his research on health care in rural China. Yang found that in the last five years, the per-capita income of those living in rural areas increased 2.4 percent, while the per-capita yearly expenditure on health care services among rural residents rose 11.8 percent, making the cost of health care one of the greatest burdens for those living in rural areas.

For a further discussion of rural China's public health infrastructure, see section III(h)-Public Health, of the Commission's [2005 Annual Report](#).

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## U.S. Department of State Releases 2005 International Religious Freedom Report

The U.S. Department of State issued an [Annual Report to Congress on International Religious Freedom](#) on November 8, as required under U.S. law. Prepared by the Bureau of Democracy, Human Rights, and Labor, the report includes a [section on China](#) that describes continued government repression of religious activities, especially among unregistered groups, despite a constitutional guarantee of religious freedom. In [remarks](#) accompanying the release of the report, Secretary of State Condoleezza Rice noted that it again designates China as one of eight "Countries of Particular Concern" whose "governments have engaged in or tolerated particularly severe violations of religious freedom over the past year."

The U.S. Commission on International Religious Freedom (CIRF), an independent U.S. government agency that reports on selected countries, also released a [Policy Focus on China](#) on November 9. The CIRF report finds continued violation of religious freedoms and notes "intensified pressure" on ethnic and religious communities that the Chinese government sees as threats to national security or social harmony.

For further information on religious freedom in China, see the [CECC 2005 Annual Report](#)'s section on Freedom of Religion and

CECC roundtables on [unofficial religions in China](#) and [China's new Regulation on Religious Affairs](#). For a related analysis, see the Human Rights Watch report [Devastating Blows](#): Religious Repression of Uighurs in Xinjiang.

## First Sexual Harassment Lawsuit Since Amendment to Women's Law

The parties in a Beijing sexual harassment case reached a settlement out of court in favor of the plaintiff, according to a November 4 Beijing Morning Post [article](#) posted on Xinhua's Web site. The case was the first since the National People's Congress Standing Committee outlawed sexual harassment in an August 2005 amendment to the Law on the Protection of the Interests and Rights of Women.

In March 2005, the plaintiff was working as a model at a Beijing art school when a male student assaulted her. She reported the offense to public security officials, and the student confessed and wrote a record of the events. Sexual harassment cases often are difficult to prosecute because of lack of evidence, noted Chen Zhengzheng, a judge with the Haidian District Court in Beijing, according to an [article](#) in the Beijing Review. Despite the strong evidence, the plaintiff withdrew her lawsuit and settled out of court due to "social and family pressures," according to the Beijing Morning Post article.

Li Ying, a lawyer at the Beijing University Women's Legal Aid Center who represented the plaintiff, hoped that this case would encourage more women to come forward with sexual harassment complaints, according to a Legal Daily [report](#) posted on the People's Daily Web site. Xinhua also [reports](#) that the Chinese news organizations Sina and Fortnight conducted a survey and found that nearly 80 percent of Chinese women had experienced sexual harassment. Despite the prevalence of the problem, before the National People's Congress Standing Committee amended the law, Chinese courts had heard fewer than 10 sexual harassment cases, and most judges ruled in favor of the defendant, the Xinhua article reported. Guo Jianmei, Li's colleague at the Legal Aid Center, noted that women's families often view victims of sexual harassment as suffering a "loss of face," according to an Agence France-Presse [article](#) posted on the South China Morning Post Web site (subscription required). In the same report, Wang Xingjuan of the Maple Women's Psychological Consulting Center in Beijing blamed "a culture to criticize the victim" of sexual harassment for the small number of cases.

## Public Security Bureau Compensates She Xianglin for Wrongful Imprisonment

The Public Security Bureau (PSB) in Jingshan county, Hubei province, agreed on October 27 to pay 450,000 renminbi (\$55,500) to She Xianglin's family as compensation for his wrongful imprisonment, according to an October 28 [report](#) from the official Xinhua news agency. Most of that amount will go toward compensating Mr. She for physical and emotional damages he suffered during 11 years in prison. The rest provides compensation for false imprisonment and emotional damages suffered by Mr. She's mother and elder brother as they attempted to appeal to authorities over his unjust treatment.

A local court convicted Mr. She and sentenced him to death for the alleged murder of his wife in 1994, later commuting the sentence to 15 years' imprisonment after a re-trial. In late March 2005, Mr. She's wife unexpectedly returned to their Hubei village, triggering a [re-evaluation](#) of his case and [investigations](#) into official malfeasance. On April 13, the court held a public re-trial and [formally exonerated](#) Mr. She of the murder conviction. According to reports by the [Legal Daily](#) and [Xinhua](#), the intermediate people's court that rejected Mr. She's appeal and upheld the original conviction agreed on August 31 to pay him 260,000 renminbi in compensation, based on a standard measure of lost wages over the 11-year period he spent in prison. The local city government has also agreed to provide him with a 200,000 renminbi hardship subsidy for his re-integration into society.

In a September 4 [interview](#) with the Shanghai Morning Post, Vice President Tang Chongde of the Jingshan People's Court blamed Mr. She's wrongful conviction on a presumption of guilt during the criminal process. Public security officials maintained that he had confessed to the crime, but the Shanghai Morning Post mentioned that numerous reports indicated Mr. She was tortured during the interrogation phase. Public pressure and neglect on the part of investigative personnel also contributed to the wrongful conviction, according to Tang and other officials. Now that the parties have settled on compensation issues, one representative of the Jingshan People's Court believes that the focus on Mr. She's case will move onto questions of culpability for official misconduct.

In the wake of the She Xianglin case and other wrongful convictions reported by Chinese media in [March](#), [April](#), [June](#), and [September](#), the Supreme People's Procuratorate has promised to [focus on eliminating the problems](#) of torture and coerced confessions. The UN Special Rapporteur on Torture will [visit](#) China from November 21 to December 2, to further investigate issues of torture while in government custody. Xinhua's October 28 report on state compensation for Mr. She's wrongful imprisonment also comes in the midst of [major revisions](#) to the [Criminal Procedure Law](#) and [developments](#) in reforming the death penalty review process.

Additional information on the She Xianglin case, the increased scrutiny in 2005 of China's criminal justice system, and the problems of torture and abuse while in custody is available in the [2005 CECC Annual Report](#), Section III(b).

## SEPA Closes Factory After Official Negligence Causes Lead Poisoning in Children

State Environmental Protection Administration (SEPA) officials postponed all new construction projects in Jiaozuo city, Henan province, after investigations revealed that official negligence allowed pollution from an illegal electrolytic lead factory to poison hundreds of children in Mafang district, Jiaozuo, according to an October 24 21st Century Business Herald [report](#), an October

19 China Daily [report](#), and an October 18 SEPA [press release](#).

The Jiaozuo city government evidently agreed in early 2003 to permit the lead factory project to proceed without environmental inspection and approval. In April 2004, the factory began testing production with incomplete pollution control equipment, in violation of the [Environmental Impact Assessment Law](#) and the [Regulations on Environmental Management for Construction Projects](#), according to the SEPA press release. As a result, the air increasingly became polluted with lead smoke and dust, according to a September 15 Xinhua [article](#), and a September 19 CCTV [interview](#) with villagers and officials. Parents in Mafang district began sending their children to live away from the factory after tests concluded that almost 90 percent of the 259 children under 14 who were tested suffered from lead poisoning, according to the reports.

SEPA officials identified four causes of the pollution incident, according to the 21st Century Business Herald report:

- The local government neglected its environmental protection duties by considering only the economic impact of the project rather than also considering the public health impact.
- The Jiaozuo Environmental Protection Bureau (EPB) approved the project without performing an inspection.
- The local environmental impact assessment center did not compile a complete EIA report.
- Part of the factory construction plans did not pass environmental assessment.

SEPA officials are cooperating with the Henan provincial EPB to penalize the Jiaozuo EPB, although neither body has announced the specific penalties to be assessed. In addition, SEPA will postpone all new construction projects approved by Jiaozuo city authorities to allow experts to conduct new assessments, according to an October 19 Beijing News [article](#). SEPA officials consider this project typical of those in which a company builds a factory, begins production, and starts contributing to local government finances to avoid the required environmental inspection, according to the 21st Century Business Herald report. SEPA's moves to bring new projects into compliance with China's environmental laws are part of a larger [effort to implement](#) environmental protection regulations at the local level.

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## Chinese and U.S. Automakers Settle Intellectual Property Dispute

Automakers GM Daewoo and Chery Automotive have settled a contentious intellectual property lawsuit, according to a November 18 Associated Press [report](#) (via Forbes) and a similar Xinhua [account](#) (in Chinese) dated the same day. GM Daewoo is a Korea-based subsidiary of General Motors Corporation, and Chery is a Chinese domestic automaker. GM Daewoo alleged that an automobile model manufactured by Chery was an exact copy of a GM Daewoo model.

GM Daewoo did not seek a design patent under Chinese law for its model, so it sought legal redress against Chery under the [Unfair Competition Law](#). A May 2005 [article](#) in the China Daily quoted Chinese government officials stating that GM Daewoo would have to demonstrate that Chery stole the design in order to prove its claim.

The GM Daewoo lawsuit argued that the Chery "QQ" model had exactly the same design specifications as the GM Daewoo Matiz model sold in South Korea and the identical Spark model sold in China. A General Motors official in China told a reporter for [The New Yorker](#) that a mechanic could exchange the doors on the two models, a feat only possible if the models share the same design. According to the May China Daily [article](#), GM Daewoo also claimed that Chery used a GM Spark to pass crash tests required under Chinese law to market the "QQ" model.

The two companies settled a separate dispute over U.S. trademarks in September when Chery, which plans to begin importing cars into the United States in 2007, agreed not to market vehicles in the United States under the name "Chery." General Motors announced earlier that it would challenge the use of the name because of its similarity to "Chevy," an established GM trademark.

Additional background on this case can be found in the [CECC 2005 Annual Report](#).

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